

CIVIL SERVICE COMMISSION MINUTES

August 18, 1999

A regular meeting of the Civil Service Commission was held at 2:30 p.m. in Room 310 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Gloria Valencia Cothran
Roy Dixon
Mary Gwen Brummitt
Sigrid Pate
Gordon Austin

Comprising a quorum of the Commission

Support Staff present:

Larry Cook, Executive Officer
Arne Hansen, Deputy County Counsel
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES
August 18, 1999

1:30 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway,
San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
14 15	12		

COMMENTS Motion by Pate to approve all items not held for discussion; seconded by Dixon. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda

A. Commissioner Austin: Bradley Fields, Esq., on behalf of **Ronald Portz** appealing an Order of Suspension from the Office of the Marshal.

B. Commissioner Dixon: **Jose Murillo** appealing an Order of Removal from the Health and Human Services Agency.

C. Commissioner Valencia-Cothran: Everett Bobbitt, Esq., on behalf of **Suzanne Campbell-Adams** appealing an Order of Termination from the Sheriff's Department.

D. Commissioner Pate: **Glendel Galloway** appealing an Order of Suspension from the Department of Animal Control.

REGULAR AGENDA

NOTE: Five total minutes will be allocated for input on Agenda Items unless additional time is requested at the outset and it is approved by the President of the Commission.

MINUTES

1. Approval of the Minutes of the regular meeting of July 21, 1999.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Pate as hearing officer in the appeal of **Hans Nagorr** from an Order of Removal of Corporal Premium Pay from the Sheriff's Department.

Confirmed.

3. Commissioner Valencia-Cothran as hearing officer in the appeal of **Hans Gregerson** from an Order of Suspension from the Office of the Marshal.

Confirmed.

4. Commissioner Austin as hearing officer in the appeal of **Danny L. Stevens** from an Order of Pay Step Reduction from the Sheriff's Department.

Confirmed.

5. Commissioner Brummitt as hearing officer in the appeal of **Michael Wilbert** from an Order of Termination from the Sheriff's Department. Commissioner Dixon previously assigned.

Confirmed.

DISCIPLINARY FINDINGS

6. Commissioner Austin: Bradley Fields, Esq. on behalf of **Ronald Portz** appealing an Order of Suspension from the Office of the Marshal.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I - Conduct unbecoming an officer of the County (rude and unprofessional behavior toward a member of the public); Cause II - Failure of good behavior. Employee has been a Court Service Officer in the Office of the Marshall for approximately 7 years. Because Employee largely admitted the facts in the Order of Suspension, the primary issue relates to whether the level of discipline selected by the Office of the Marshall was appropriate. The Order of Suspension and Charges sets forth in detail prior incidents and discipline, which the Office of the Marshall contends, is of a similar nature to the incident at hand. Employee argued that the most recent suspension was not made known to him before this current Order of Suspension was served upon him, thereby Employee contended the Office of the Marshall was "piling on" disciplines. Commissioner Austin noted this fact, however concluded the suspension at issue is the appropriate next step of discipline given Employee's prior counseling and discipline up to the time of the incident at issue. The Charges described in Causes I and II were proven to be true. It is therefore recommended that the Order of Suspension and Charges be affirmed, and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission, and that the Commission approve and file this report.

Motion by Austin to approve Findings and Recommendations; seconded by Brummitt. Carried.

7. Commissioner Dixon: **Jose Murillo** appealing an Order of Removal from the Health and Human Services Agency.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I - Conduct unbecoming an employee of the County (establishing a personal relationship with a client and concealing such a relationship; providing false information to support a CMS application; eliciting other County Employees to lend credibility to the false information); Cause II - Insubordination; Cause III - Dishonesty; Cause IV - Acts incompatible and/or inimical with the Public Service; and Cause V - failure of good behavior.

Employee has been employed as an Eligibility Technician in the Health and Human Services Agency since 1992. The Order of Removal is based on charges arising from Employee's involvement in three underlying matters: (a) that Employee initiated and failed to timely disclose his romantic relationship with an Agency client; (b) that Employee used his position in the Agency to support the fraudulent application of a family member; and (c) that prior to his employment, Employee was dishonest in claiming U.S. residency on his application for Aid To Families With Dependent Children for the same period of time that he was claiming Mexican residency to the Universidad of Mexico to obtain tuition benefits.

Employee's integrity and his restraint in matters where he has a conflict of interest is of utmost importance in his employment as an Eligibility Technician. The Agency proved that Employee is willing to abuse the system for personal gain, therefore contending that Employee is unfit to guard the County's system of providing assistance to the needy. The Agency proved Cause One (A), except for the allegation that Employee lived with Brenda M. before February 14, 1997; Cause One (B) (1); Cause One (D) (1) & (2); Cause Three (A) (2), (3) and (5); and Cause Three (C). The Agency failed to prove the charges contained in Cause One (B) (2), (3), (4) & (5); Cause One (C) (1) & (2); Cause Two; Cause Three (A) (1), (4) & (6); and Cause Three (B). It is therefore recommended that the Order of Removal and Charges be affirmed, and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission and that the Commission approve and file this report.

Motion by Dixon to approve Findings and Recommendations; seconded by Austin. Carried.

8. Commissioner Valencia-Cothran: Everett Bobbitt, Esq., on behalf of **Suzanne Campbell-Adams** appealing an Order of Termination from the Sheriff's Department.

Employee is charged with Cause I - Dishonesty; Cause II - Dishonesty; Cause III Inefficiency; Cause IV - Dishonesty; Cause V - Failure of good behavior; and Cause VI - Acts which are incompatible with and/or inimical to the public service. Employee has been employed as a Corrections Deputy Sheriff with the Sheriff's Department for approximately 6 years. Employee's assignment to Module 5B at the George Bailey Detention Center required that she possess unique interpersonal skills and a sound maturity level. When questioned by the Department as

to whether certain correspondence had been transmitted by an inmate and read by her, Employee several times denied receiving and/or reading any correspondence from this particular inmate, or any other inmate. The Department proved that Employee was untruthful when she denied reading any letters from inmates. Employee's associations with inmates likely crossed the line between associating with them on a professional and a personal basis, which in and of itself does not necessarily present a case for significant discipline. Rather Employee's subsequent attempt to conceal these associations/letters that presents a case for termination. The Department proved Charges I, II, III, IV, V and VI in the Order of Termination. It is therefore recommended that the Order of Termination be affirmed; and the proposed decision shall become effective upon the date of approval by the Civil Service Commission and that the Commission approve and file this report.

Motion by Dixon to approve Findings and Recommendations; seconded by Austin.

9. Commissioner Pate: **Glendel Galloway** appealing an Order of Suspension from the Department of Animal Control.

Employee was charged with Cause I - Inexcusable absence; and Cause II - Insubordination. Employee has been employed in the Department of Animal Control for 9 years. Upon receiving a performance appraisal from his supervisor which stated "improvement needed", Employee allegedly became stressed and called in "sick" the day after the appraisal had been given. The Department requested a doctor's verification for the day in question. Employee refused and returned to work the following day without a doctor's verification. Employee has an ongoing workers' compensation claim for irritable bowel syndrome which relates to "work-related stress". Employee believed he should have been allowed to take the sick leave day with pay. The Department reacted strongly due to employee's sarcastic demeanor and his past insubordinate actions.

This case presents mitigating circumstances: Employee proved that his absence was pursuant to his workers' compensation doctor's instructions, however, Employee failed to recognize that his own conduct caused the Department to initiate a disciplinary action. The charges in Cause One of the Order of Suspension and Charges were not proven to be true; the charges in Cause Two were proven to be true. It is therefore recommended that the Final Order of Suspension and Charges be modified to reduce the Suspension from two workdays (17 hours) to one workday (8.5 hours); that Employee be reimbursed for back pay and benefits in accordance with this proposed decision; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission and that the Commission approve and file this report.

Motion by Pate to approve Findings and Recommendations; seconded by Dixon. Carried.

Interim Reports

10. Commissioner Brummitt: Everett Bobbitt, Esq. on behalf of Larry Staley appealing an alleged punitive transfer within the Sheriff's Department.

RECOMMENDATION:

Due to similar cases pending before the Fourth Appellate District Court of Appeals, Commissioner Brummitt recommended that the Commission hold this matter in abeyance pending the outcome of the cases on appeal.

Motion by Brummitt to approve the Interim Report; seconded by Valencia-Cothran. Carried.

11. Commissioner Pate: Everett Bobbitt, Esq., on behalf of **David Lopez** appealing an alleged punitive transfer within the Sheriff's Department.

RECOMMENDATION:

Due to similar cases pending before the Fourth Appellate District Court of Appeals, Commissioner Pate recommended that the Commission hold this matter in abeyance pending the outcome of the cases on appeal.

Motion by Pate to approve the Interim Report; seconded by Austin. Carried.

12. Commissioner Austin: Everett Bobbitt, Esq. on behalf of **James Parks** appealing an alleged punitive transfer within the Sheriff's Department.

RECOMMENDATION: Hold in abeyance pending the outcome of the Court's decision in similar cases.

Staff recommendation approved.

SELECTION PROCESS FINDINGS/COMPLAINTS

Findings

13. **Michael McCormick** appeal of removal of his name by DHR from the employment list for Corrections Deputy Sheriff.

RECOMMENDATION: Ratify item No. 13. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item No. 13 ratified.

Complaints

14. **Douglas Groulx**, appealing disqualification from the classification of Eligibility Technician in the Health and Human Services Agency.

RECOMMENDATION: Deny request.

Patty Groulx, Applicant's wife, addressed the Commission on behalf of her husband, Douglas Groulx. Ms. Groulx read a statement by Applicant requesting consideration of his appeal. Mr. Groulx felt he was unjustly disqualified due to his "spotty" work history.

Janice Horning, representing the Agency expressed concern over Employee's past employment and court history relating to bad attitude, temper, difficulty in dealing with adolescents, leaving jobs under unfavorable conditions, and misdemeanor conviction. Ms. Horning explained that Employee's name was not removed from the list, but that the next step would be a letter from the Agency to DHR regarding this matter. Based on the Agency's request and DHR's evaluation, Employee may appeal the action if his name is ultimately removed from the list.

Motion by Austin to approve staff recommendation; seconded by Dixon. Carried.

15. **Carey McCallum**, appealing his unsuccessful selection for the classification of Legal Assistant I as coordinated by DHR.

RECOMMENDATION: Deny Request

Mr. McCallum addressed the Commission explaining his frustration in his attempt to qualify for the Legal Assistant I classification. He felt he was fully qualified based upon the official job announcement and requested DHR to provide him with a copy of his test results. Upon being informed that DHR does not give out the actual test results, he filed a petition to appeal the selection process.

Willie Cook, DHR Manager, addressed the Commission in response to Mr. McCallum's appeal. She informed the Commission that copies of rating sheets are never distributed to applicants. She also explained the unbiased and fair rating procedure given to each applicant. Ms. Cook stated that Mr. McCallum was short in the area of experience for this particular job, and she encouraged him to reapply at a later date after he had obtained more experience.

Discussion ensued regarding the wording of the job announcement, and Ms. Cook explained that the main assessment tool in hiring an applicant is the Supplemental Application form attached to the job application, which is scored by the raters. (Mr. McCallum's score was a 56.5, which fell short of the 70 points needed to be considered passing).

Motion by Dixon to approve staff recommendation; seconded by Austin. Carried.

16. **Bernard Chase**, appealing DHR's refusal to place his name on the Reinstatement List for Assistant Planner, and related matters.

RECOMMENDATION: Deny Request

Staff recommendation approved.

INVESTIGATIONS

17. **Charlotte Turner, R.N.**, requesting an investigation concerning the status of her employment with the Sheriff's Department.

RECOMMENDATION: Deny Request

Staff recommendation approved.

OTHER MATTERS

Extension of Temporary Appointments

18. Assessor/Recorder/County Clerk

2 Property Assessment Specialist I=s (Colleen Young & Wendy Adams)

1 Appraiser III (Mark Dodge)

1 Departmental Computer Specialist I (Andrew McDonald)

1 Division Chief II (Bernard Siekert)

19. Alternate Public Defender

1 Graduate Attorney (Steven Bloom)

RECOMMENDATION: Ratify item Nos. 18 & 19.

Item Nos. 18 & 19 ratified.

20. Commissioner Valencia-Cothran: Adjustment of compensation for the Commission's Executive Officer to the control point based on the Board of Supervisors' recent adjustment in ranges.

Commission approved Item No. 20.

21. Ratification of **James R. Nelson, M.D.** and **Nancy Haller, PhD** as additional names to the list of medical providers to be used for fitness for duty evaluations at the request of the Department of Human Resources.

RECOMMENDATION: Ratify Providers.

Item No. 21 ratified.

22. Public Input.

ADJOURNMENT: 4:00 p.m.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE SEPTEMBER 15, 1999.